From: J T [mailto:jstfincorp@yahoo.com]
Sent: Wednesday, March 15, 2017 12:45 PM
To: EBSA.FiduciaryRuleExamination
Subject: RIN 1210-AB79

EBSA.FiduciaryRuleExamination@dol.gov
RIN 1210-AB79
March 15, 2017
EBSA:

I write to not only support the 60-day extension of the applicability date for the "Fiduciary Conduct Rule" as well as the attendant PTEs, but to urge you to lengthen that delay for a minimum of 180 days so as to allow for a full investigation of all the questions raised in President Trump's Executive Memorandum.

I have been in the financial services business for over 25 years and I know from my own personal experience that all of the questions raised in the President's Executive Memorandum are of serious concern to the American public and the DOL has an obligation to "get it right".
Each of the questions raised in the President's Memorandum are of significant concern to me and my clients:

1. **Will the Rule harm investors? ABSOLUTELY YES**
2. **Does this Rule harm the financial services industry? YES**
3. **Does this Rule disrupt services provided by the industry? YES**
4. **Will this Rule cause and create more litigation? YES**
5. **Do the PTEs undermine the Rule? NO**
6. **Does the Rule violate the Administrative Procedures Act? YES**

All of these questions require a thorough analysis and investigation which cannot possibly be done in just 60 days.

The future financial welfare of all Americans who are trying to provide a safe and secure retirement for themselves and their families deserves the best efforts of the DOL to examine all of the facts regarding this proposed Rule.

By the Department's own admission there are more than enough questions about this Rule to warrant a 180 day delay. Please see the following quotes from your Notice for Comments as evidence of this doubt.

On page 6 it states:

"The Department believes it may take more time than that to complete the examination mandated by the President's Memorandum."

On page 7 of that Notice the Dept. clearly states its own indecision and uncertainty about allowing the delay to be granted by using phrases like:

"The nature and magnitude of any such delay of the effects is highly uncertain, as some variation can be expected in the pace at which firms move to comply….."

"Notwithstanding this uncertainty, some delay of the predicted effects seems likely."

Page 8) Contains further evidence that the Dept. is not sure about what it is doing:

"Relative to the actual impact of the proposed delay on retirement investors, which is unknown, this illustration is uncertain and incomplete.

Page 9) Contains this passage:

"However due to a lack of systematic evidence on the portion of compliance activities that have already been undertaken, thus rendering the associated costs sunk, the Department is unable to quantify the potential change in start-up costs that would result from a delay in the applicability date".

Page 10) Contains this most revealing passage:

"The costs and benefits of this proposal are highly uncertain, and may vary widely depending on several variables, including the eventual results of the Departments examination of the final rule and exemptions pursuant to the Presidential Memorandum, and the amount of time that will be required to complete that review and, if appropriate, rescind or revise the rule."

The American public has the right to decide who they want to help them plan for their future, and exactly how they want to pay for that help.

Freedom of choice is not a right that the Department of Labor has the power, or authority, to remove from the American public.

The facts are that this proposed Rule will do more harm to the public than good.

Small investors will not be able to get professional help after this Rule takes effect.

This Rule does nothing new to protect people from crooks.

Crooks will still be crooks long after the honest, ethical people in this business have been driven out of business by the lawyers who are, as we speak, licking their chops over the litigation prospects this Rule hands them.

This Rule does nothing to mitigate investment risk other than allowing lawyers to sue someone as soon as the first market downturn occurs.

The definition of "best interests" will be determined by the plaintiff's lawyer after the next market correction.

If you want to effect changes in the behavior of financial advisors hire more "cops" and stiffen penalties for misdeeds and abuses. How many laws do we need to say: "Thou shalt not steal"?

My clients do not want to have to find a new advisor to help them.

My clients do not want the government telling them who they have to deal with, and controlling what products they can use to grow their retirement assets.

My clients understand the value of dealing with someone like me who has been in this business for 25 years and has seen market highs and market lows. Someone who has experience is guiding them through the pitfalls of emotional investing which leads people to "buy high, and sell low".
The vast majority of my clients lacked the financial education and experience needed to make their own best decisions about their retirement plans, and the educational system in America certainly does not provide it. Why not create a new rule that is an educational incentive instead of a job killing, investor-harming exercise in controlling a person's right to choose?

The American public does not want a new Rule that was created out of a knee-jerk reaction to Bernie Madoff's embezzlement; founded on a fallacy; and driven by a bureaucratic desire to control and eliminate the ability of the individual American to have a choice in their lives about who they want to help them with their retirement planning.

The basic premise of the DOL Rule is based on the fallacy that the public would be better off with fee-based advice rather than advice from a commission only source.

Each and every time I have come up against a fee-based advisor or planner I have found their deceptive business practices and double-dipping of fees and commissions to be revolting.
How the DOL can conclude that dealing with a fee-based person is better and less costly for the public than dealing with a commission-based person like me is to willfully ignore the facts, and exhibits a clear lack of understanding of how to do simple mathematics to compare the costs of dealing with a fee-based advisor.

Fee-based advisors cost the public more money than do commission-based advisors.

Obviously, by its own admission as seen on page 6 of the Notice for Comments, the Department needs more time to study the ramifications of this proposed Rule.

Granting a 180-day delay in its implementation will show a desire on the part of the Department to "get it right".

The American investing public deserves your best efforts.

Taking away their right to choose is not in their "best interests."
Sincerely,
James S. Toler, President
JST FINANCIAL CORP